

The "FORTY FOURTH MEETING" (REGULAR) of the Port Colborne City Council was held at the Municipal Offices, 66 Charlotte Street, Port Colborne on Monday, December 10, 2012 commencing at approximately 10:02 p.m.

### ATTENDANCE

Mayor Vance Badawey presided with the following members in attendance:

### COUNCILLORS

D. Elliott	W. Steele
A. Desmarais	Y. Doucet
F. Danch	
R. Bodner	B. Butters

Absent: B. Kenny (due to vacation)

### REGIONAL COUNCILLOR:

D. Barrick

### STAFF:

R. Heil, Chief Administrative Officer  
A. Grigg, City Clerk  
L. Merritt, Chief Building Official  
R. Hanson, Director of Engineering & Operations  
J. Huppunen, Manager of Engineering  
P. Senese, Director of Community & Corporate Services  
H. Hakim, Manager of Community Services  
S. McIntyre, Recording Clerk

Also in attendance were interested citizens, members of the news media and Cogeco TV.

### **CALL MEETING TO ORDER – MAYOR VANCE BADAWEY**

#### **1. INTRODUCTION OF ADDENDUM ITEMS**

##### **Addition:**

E-mail correspondence from Gordon Baker, President, Nyon Oil Inc., dated December 7, 2012, related to item 13, Chief Administrative Officer, Special Projects and Strategic Initiatives Report 2012-9, concerning comments from adjacent landowners on Kleinsmith Road. A copy of the correspondence is attached.

##### **Addition:**

Comments received by the Department of Engineering and Operations on December 10, 2012, concerning item 1, Engineering and Operations, Engineering Division Report 2012-40, regarding the Downtown Community Improvement Plan streetscape design. A copy of the comments is attached.

#### **2. CONFIRMATION OF THE AGENDA**

**No. 320** Moved by Councillor F. Danch  
Seconded by Councillor D. Elliott

That the Agenda dated December 10, 2012 be confirmed as amended.  
CARRIED.

**3. DISCLOSURES OF INTEREST**

Councillor Doucet declared an indirect pecuniary interest with regard to Item 11, By-law 5885/139/12, Being a By-law to Enter into an Extension and Expansion to a Contract Agreement with Dr. Jason King Respecting the Establishment and Maintenance of a Full-Time Family Medicine Practice in Port Colborne as Dr. King is Councillor Doucet's family physician. Councillor Doucet refrained from discussing or voting on this item.

**4. ADOPTION OF MINUTES**

(a) **Minutes of the Forty Third Meeting (Regular) of Council of November 26<sup>th</sup>, 2012**

**No. 321** Moved by Councillor R. Bodner  
 Seconded by Councillor Y. Doucet

That the Minutes of the Forty Third Meeting (Regular) of Council of November 26<sup>th</sup>, 2012 be adopted as circulated;  
 CARRIED.

**5. DETERMINATION OF COUNCIL ITEMS REQUIRING SEPARATE DISCUSSION**

Nil.

**6. ADOPTION OF COUNCIL ITEMS NOT REQUIRING SEPARATE DISCUSSION**

**No. 322** Moved by Councillor W. Steele  
 Seconded by Councillor Y. Doucet

That Items 1 to 18 on the regular agenda be approved, as amended at the Committee of the Whole Meeting of December 10, 2012 with the exception of items that have been deferred, deleted or listed for separate discussion, and the recommendations contained therein adopted.

**ITEMS:**

1. **Department of Engineering & Operations, Engineering Division, Report No. 2012-40, Subject: Information Report: Detailed Streetscape Design for the Downtown Central Business District Community Improvement Plan Area**

Council resolved:

- a) That the Council of the City of Port Colborne accept this information report; and
- b) That Council endorse the detailed design of the Downtown Central Business District Community Improvement Plan project area as presented by AECOM.

2. **Department of Engineering & Operations, Engineering Division, Report No. 2012-38, Subject: Project 2012-22 - Request for Proposal – Architect for the Port Colborne Operations Centre Design-Bid-Build Project**

Council resolved:

- a) That the Council of the City of Port Colborne award the Request for Proposal – Architect for the Port Colborne Operations Centre Design-Bid-Build Project to McCallum

Sather Architects Inc. of Hamilton, Ontario for the total proposed price of \$361,400, plus applicable taxes; and

- b) That the project be debentured in the amount of \$361,400, excluding taxes, through the Infrastructure Ontario Loan Program for a period of 30 years; and
  - c) That the appropriate by-laws be drafted and submitted for execution by the Mayor and City Clerk.
3. **Department of Engineering & Operations, Engineering Division, Report No. 2012-39, Subject: Project 2012-09 – Request for Proposal – Qualification of Consulting Services for the Development of a Storm Sewer System Infrastructure Needs Study**

Council resolved:

- a) That the Council of the City of Port Colborne award the Request for Proposal – Development of a Storm Sewer System Infrastructure Needs Study to Associated Engineering of St. Catharines, Ontario for the total proposed price of \$143,952.00, plus applicable taxes.
  - b) That funding for Project 2012-09 be financed under Account 0-510-74845-3319.
4. **Department of Community & Corporate Services, Corporate Services Division, Report No. 2012-39, Subject: 2013 Interim Tax Billing**

Council resolved:

That Council adopt a by-law to authorize the 2013 interim levy for all property tax classes, from the last revised assessment roll, before the adoption of the estimates for the year.

5. **Department of Community & Corporate Services, Corporate Services Division, Report No. 2012-40, Subject: Penalty Charges and Interest Rates for 2013**

Council resolved:

That the Council of the City of Port Colborne adopt the by-law to establish the 2013 late payment charges on payments due to the municipality.

6. **Department of Community & Corporate Services, Corporate Services Division, Report No. 2012-41, Subject: 2013 Borrowing By-law**

Council resolved:

That the Council adopt a by-law to authorize temporary borrowing, if required, of up to \$4,000,000.00 to meet the current expenditures of the Corporation until the taxes are collected.

7. **Department of Community & Corporate Services, Corporate Services Division, Report No. 2012-42, Subject: Approval of Spending Limits During the Interval Prior to the Approval of the 2013 Budget Estimates**

Council resolved:

That until such time that the 2013 Current Budget is adopted, the Council of the City of Port Colborne approve the following:

1. That City Departments, Boards, and Agencies be allowed to incur operating costs to a level of 50% of the departmental expenditure of the prior year.
2. That new capital items deemed essential by a department be approved by the respective Standing Committee or Board or Agency and the Council of the City of Port Colborne prior to purchase.
3. That this policy be communicated to all Department Directors, Boards, and Agencies.

8. **Department of Community & Corporate Services, Corporate Services Division, Report No. 2012-44, Subject: Port Colborne Community Bus Proposed Route Change**

Council resolved:

That the Council of the City of Port Colborne approves the East Community Route change to accommodate the providing of transit service to the Vale Health and Wellness Centre effective January 21, 2013.

9. **Department of Community & Corporate Services, Community Services Division, Report No. 2012-34, Subject: Community Services Program Schedule at the Vale Health and Wellness Centre and Centennial Pool Celebration and Closure**

Council resolved:

That Council receives this report as information and continues to support Community Services staff to develop year round recreation and event programs, and approve the Centennial Pool celebration for December 15, 2012.

10. **Department of Community & Corporate Services, Community Services Division, Report No. 2012-35, Subject: Information Report for Basic Rules & Regulations, Placement of Fencing Around the Perimeter and to Recommend By-law Adoption of Finalized Signage at the Skateboard & BMX Park Located at Lock 8**

Council resolved:

- a) That the Council of the City of Port Colborne authorize the installation of signs at the Lock 8 Park advising that the Skateboard and BMX facility is "Under Video Surveillance".
- b) That Council approve Schedule "A" minimum rules to observe be temporarily approved and that signs accordingly be posted on the site now pending the final by-law.
- c) That Council approves the erection of protective fencing around the perimeter of the park (approximately 280m) from the end of December 2012 to April 2013 at a cost of \$3,600 until the park becomes operational in the spring 2013.

11. **Department of Planning & Development, Report No. 2012-84, Subject: Parking Enforcement – By-law Appointment**

Council resolved:

The Council of the City of Port Colborne appoint Cody Walker and Tyler Broderick as a Municipal Law Enforcement Officers.

12. **Department of Planning & Development, Report No. 2012-85, Subject: Follow up 9-1-1- Public Emergency Reporting Services (9-1-1 PERS)**

Council resolved:

That the Council of the City of Port Colborne, direct staff, to continue to bring the City of Port Colborne into compliance with 9-1-1 PERS.

13. **Department of Chief Administrative Officer, Special Projects & Corporate Strategic Initiatives, Report No. 2012-9, Subject: Request from Nyon Oil Inc. for the City of Port Colborne to consider approval of a new access from Highway 140 to the proposed Energy Park Lands including the closure of the existing Kleinsmith Road entrance and replacement with the new access**

Council resolved:

That based upon the following terms City Council supports the request from Nyon Oil Inc. for a new access from the Port Colborne Energy Park as described in the November 22, 2012 correspondence from Nyon Oil Inc.; and

That no action regarding the changes in access be commenced other than obtaining Regional and Provincial approvals in principle until after the current Ontario Municipal Board hearings have been completed; and further

That the terms listed below form a prerequisite for final Council approval of the proposed new access described above:

- a. All costs associated with the closure of the existing Kleinsmith Road access to Highway 140 as proposed in the Nyon Oil Inc. letter and attached map showing the proposed configuration of same be at the sole cost of Nyon Oil Inc.
- b. No actual work be started until this arrangement has been confirmed in an appropriate legal agreement to reflect same to the City of Port Colborne's satisfaction.
- c. That Nyon Oil Inc. meet with the affected residents and identify any issues that require mitigation and to provide a list of same to the City along with their proposed mitigations of same. Council while not agreeing to mitigate these may have to judge the appropriateness of both the issues and the proposed mitigation to decide a final response to this request.
- d. That Nyon Oil Inc. obtain approvals from all Provincial, Regional and City of Port Colborne technical and legal authorities for the proposed changes before any work to implement same is commenced and that this will be at the full expense of Nyon Oil Inc.
- e. Legal Title without conditions for the proposed new municipal access and connection to the existing Kleinsmith properties will be transferred to the City as a part of any permit process to begin construction of the proposed new access.
- f. No work will be started without an approved schedule of start and finish approved by the City of Port Colborne and an identification of what mitigation measures will be implemented to

ensure the existing resident of Kleinsmith road is not denied ongoing access to that residence.

- g. As a part of approval process noted in (d) the City reserves the right as a part of its approval to require a contribution to ongoing maintenance of the proposed new municipal access for wear expected from the heavy vehicle traffic access and leaving the Energy Park Project.
- h. The proposed internal servicing network will be a private road network until and unless the proponent and the City of Port Colborne negotiate a different ownership arrangement at a future date.
- i. Zoning and Official Plan be regularized for the two private properties (if required) based on the changes in road access, frontage etc. all at the expense of Nyon Oil Inc.
- j. As part of approval process noted in (c), that staff be directed to attend the meetings between Nyon Oil Inc. and affected residents and communicate directly with the landowners on matters pertaining to Kleinsmith Road.

#### **Miscellaneous Correspondence**

14. **Skates for Kids Re Donation to Skates for Kids Program (St. Therese Catholic Elementary School Donation)**

Council resolved:

That the correspondence received from Josh Juhlke, Skates for Kids Program Coordinator and Bob Watson, Chief Executive Officer, PenFinancial Credit Union Re Donation made by City Councillors for the Skates for Kids Program (St. Therese Catholic Elementary School) be received for information.

15. **Niagara Regional Housing Re NRH 2012 3rd Quarter Report to Council**

Council resolved:

That the correspondence received from Lora Beckwith, General Manager, Niagara Regional Housing Re The Niagara Regional 2012 3rd Quarter Report to Council, be received for information.

16. **Memorandum from Lindsay Richardson, Community/Policy Planner, Planning & Development Services Division Re Request for Extension of Draft Plan Approval – Northland Estates (File 26T-12-2000-02)**

Council resolved:

- 1. That Council resolve to extend the Draft Plan Approval for the Northland Estates Draft Plan of Subdivision to July 13, 2013.
- 2. That QX4 Investments Limited Consulting Services be notified accordingly.

#### **Outside Resolutions – Requests for Endorsement**

17. **City of Niagara Falls Re Hospital Services Petition**

Council resolved:

That the resolution received from the City of Niagara Falls Re Hospital Services Petition, be received for information.

18. **Resolution from the Town of Grimsby in support of resolutions received from the City of Toronto and City of Mississauga to Disband the Ontario Municipal Board**

Council resolved:

That the resolution received from the Town of Grimsby regarding in support of resolution received from the City of Toronto and the City of Mississauga to disband the Ontario Municipal Board, be received and filed.

CARRIED.

7. **CONSIDERATION OF ITEMS REQUIRING SEPARATE DISCUSSION**

Nil.

8. **PROCLAMATIONS**

Nil.

9. **MINUTES OF BOARDS, COMMISSIONS & COMMITTEES**

(a) **Minutes of the Downtown Port Colborne BIA Meeting of October 10 and November 14, 2012**

**No. 323** Moved by Councillor B. Butters  
Seconded by Councillor R. Bodner

(a) That the Minutes of the Minutes of the Downtown Port Colborne BIA Meeting of October 10 and November 14, 2012 be received.

CARRIED.

10. **NOTICE OF MOTION**

Nil.

11. **INTRODUCTION, CONSIDERATION AND PASSAGE OF BY-LAWS**

**By-laws for Three Readings**

**No. 324** Moved by Councillor D. Elliott  
Seconded by Councillor A. Desmarais

That the following by-law be read a first, second and third time and passed:

- 5885/139/12 Being a By-law to Enter into an Extension and Expansion to a Contract Agreement with Dr. Jason King Respecting the Establishment and Maintenance of a Full-Time Family Medicine Practice in Port Colborne

CARRIED.

**No. 325** Moved by Councillor W. Steele  
Seconded by Councillor R. Bodner

That the following by-laws be read a first, second and third time and passed:

- 5886/140/12 Being a By-law to Authorize Entering into a Contract Agreement with McCallum Sather Architects Inc. Re Request for Proposal – Architect for the Port Colborne Operations Centre Design-Bid-Build Project
- 5887/141/12 Being a By-law to Authorize Entering Into a Contract

- 5888/142/12 Agreement with Associated Engineering Re Project 2012-09 Request for Proposal – Qualification of Consulting Services for the Development of a Storm Sewer System Infrastructure Needs Study
- 5889/143/12 Being a By-law to Provide for an Interim Tax Levy for the Year 2013
- 5890/144/12 A By-law to Establish Penalty Charges and Interest Charges on Payments Due to the Municipality for 2013
- 5891/145/12 A By-law to Authorize the Temporary Borrowing of \$4,000,000.00 for 2013
- 5891/145/12 Being a By-law to Appoint the Named Blue Knight Security Employees as a By-law Enforcement Officers

CARRIED.

**12. CONFIRMATORY BY-LAW**

**No. 326** Moved by Councillor D. Elliott  
Seconded by Councillor Y. Doucet

That the following by-law be read a first, second and third time and passed:

- 5892/146/12 Being a By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne at its Regular Meeting of Council of December 10, 2012

CARRIED.

**13. COUNCIL IN CLOSED SESSION – 10:13 P.M.**

**No. 327** Moved by Councillor D. Elliott  
Seconded by Councillor Y. Doucet

That Council proceed in closed session in order to address the following matter(s):

- (a) Minutes of the Closed Session portion of the November 26, 2012 Council meeting
- (b) Confidential Community and Corporate Services, Clerk's Division Report 2012-43, Subject: Appointments to Boards and Committees, pursuant to the *Municipal Act, 2001*, Subsection 239(2)(b) personal matters about an identifiable individual, including municipal or local board employees
- (c) Confidential verbal report from Mayor Badawey concerning the performance evaluation of the Chief Administrative Officer, pursuant to the *Municipal Act, 2001*, Subsection 239(2)(b) personal matters about an identifiable individual, including municipal or local board employees, and 239(2)(d) labour relations or employee negotiations

CARRIED.

**No. 328** Moved by Councillor  
Seconded by Councillor

That Council do now rise from closed session with report at approximately 10:40 p.m.

CARRIED.

**14. DISCLOSURES OF INTEREST ARISING FROM CLOSED SESSION**

Nil.

**15. MOTIONS ARISING FROM CLOSED SESSION**

- (b) Confidential Community and Corporate Services, Clerk's Division Report 2012-43, Subject: Appointments to Boards and Committees, pursuant to the *Municipal Act, 2001*, Subsection 239(2)(b) personal



**matters about an identifiable individual, including municipal or local board employees**

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**No. 329** Moved by Councillor Y. Doucet  
Seconded by Councillor F. Danch

That the City Clerk be directed to bring forward a report in open session with respect to appointments to boards and committees as recommended by Council, as follows:

**Accessibility Advisory Committee:**  
That Mary Lou Whitty be appointed to the Accessibility Advisory Committee for a term ending December 31, 2017.

**Canal Days Advisory Committee:**  
That Betty Konc be appointed to the Canal Days Advisory Committee for a term ending December 31, 2017.

**Environmental Advisory Committee:**  
That Ryan Waines be appointed to the Environmental Advisory Committee for a term ending December 31, 2017.

**Port Colborne Historical and Marine Museum Board:**  
That Cheryl MacMillan, Marcia Turner, Jack Roy and Brian Heaslip be appointed to the Port Colborne Historical and Marine Museum Board for a term ending December 31, 2017.

**Port Colborne Physician Recruitment, Retention and Medical Education Committee:**  
That Peter Opdam be appointed to the Port Colborne Physician Recruitment, Retention and Medical Education Committee for a term ending December 31, 2017.

**Town Crier:**  
That Thomas Pekar be reappointed as Town Crier for a term ending December 31, 2014.

That the Clerk be directed to bring forward the necessary by-law for approval.

That the Clerk be directed to undertake a second recruitment initiative in the New Year in order to solicit further applications.

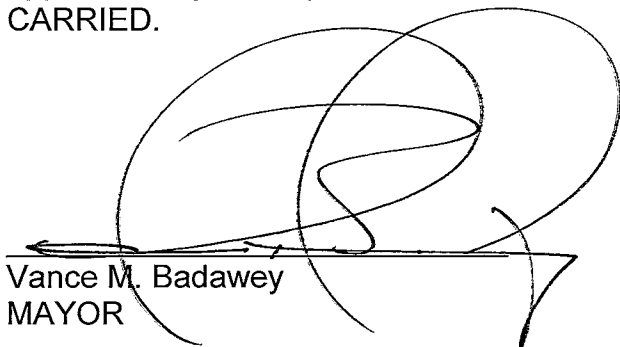
CARRIED.

**16. ADJOURN**

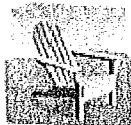
**No. 330** Moved by Councillor A. Desmarais  
Seconded by Councillor W. Steele

That there being no further business, the Council meeting be adjourned at approximately 10:42 p.m.

CARRIED.

  
Vance M. Badawey  
MAYOR

  
Ashley Grigg  
CITY CLERK



Fw: Adjacent Landowners On Kleinsmith Road

Cecil Vincent

to:

Ashley Grigg, Bob H, Robert Heil

12/07/12 11:38 AM

Hide Details

From: Cecil Vincent/Port\_Notes

To: Ashley Grigg/Port\_Notes, "Bob H" <

>, Robert Heil/Port\_Notes@Port\_Notes,

History: This message has been forwarded.

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**From:** "Gordon R. Baker Q.C."

**Sent:** 12/07/2012 11:29 AM EST

**To:** Cecil Vincent

**Subject:** Adjacent Landowners On Kleinsmith Road

Mr. Vincent, further to our conversation yesterday, you have the emails that I sent to Dan Monger, who has the house on the north side of Kleinsmith Road, and Robert Ferri, who owns the vacant land on the south side of Kleinsmith road together with his brother and father. After discussing with each of them the proposed new municipal road and the closing of the existing entrance from Highway 140 and the so that the trucks accessing the Energy Park would be then be accessing on the new municipal road rather than on Kleinsmith Road, neither expressed any opposition to the proposal. Mr. Monger sounded relieved that the vehicles would not be going in on Kleinsmith Road past his house then turning north again to the west side of his house. I asked each of them in the emails I sent to contact me if they had any concerns. As of 11:19 AM Friday, December 7, I have not heard from either of them. They both even seem to take a common sense approach, the farther away the truck entrance is from Kleinsmith road the better. They also acknowledged that it was safer with the access being farther from the rail overpass with level approaches and better sightlines.

Regards, Gordon Baker

### COMMENT SHEET

Public Information Centre - Thursday November 22<sup>nd</sup>, 2012

If you have any comments regarding this project, please provide below.

- The Streetscape proposal is fabulous!
- Particularly liked the rounded street corners + bollards.
- Hope the Town Clock can stay...
- I am still not sure what the by-laws are regarding overnight parking in this area ???
- CONCERN: The benches are going to be a major problem for us. There will be drunks, kids outside the windows, yelling & swearing all night. There is nothing of interest to sit + see at the corner of King + Clarence. I am also worried about broken windows.

Even though benches were erected during the Main Street improvements, I feel that there is a slightly different caliber of people coming out of the bars on Main Street than there is on Clarence + King Street.

Benches on Clarence + King will affect our business

Please provide your contact information for our records.

Name: THE King George INN  
Roslynnne Cooke - INNKEEPER  
Address: 239 King St. PORT COLBORNE L3K 4G8  
Telephone: 905-834-8096 Fax: -  
Email: port.king@the.kinggeorgeinn.ca